

**WARRANT FOR ANNUAL TOWN MEETING
TOWN OF LANESBOROUGH
COMMONWEALTH OF MASSACHUSETTS
FISCAL YEAR 2010**

BERKSHIRE, ss.

May 5, 2009

To any of the Police Officers of the Town of Lanesborough:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the said Town, qualified to vote in Town affairs, to meet at the Lanesborough Elementary School in said Lanesborough on Tuesday, May 12, 2009 at 7:00 p.m., then and there to act on the following articles of business:

ARTICLE 1. To elect the necessary Town Officers on one ballot; One Assessor for two years; One Assessor for three years; One Selectmen for three years; One Cemetery Committee member for three years; One Cemetery Committee member for one year; One Finance Committee members for two years; One Finance Committee members for three years; One Lanesborough School Committee member for three years; One Planning Board member for five years; One Sewer Commissioner for three years; One Library Trustee for one year; One Library Trustee for three years; One Moderator for one year;

Ballot Question 1) Shall the Town vote to have its elected Board of Assessors become an appointed Board of Assessors of the town? Yes _____ No _____.

ARTICLE 2. To fix the compensation of all elected Town Officers as provided by M.G.L. Chapter 41, Section 108, as amended, and to hear the budget, act thereon and raise and appropriate a sum or sums of money to defray charges and expenses of the Town for the ensuing year. *(Recommended by the Finance Committee)*

ARTICLE 3. To see if the Town will vote to raise, appropriate and/or transfer from available funds **\$585.00** to the Assessors Expense Account to pay two unpaid invoices from **Blackbox**, pursuant to MGL c. 44, s. 64, for FY08. *(Recommended by the Finance Committee) (4/5 Vote Required)*

ARTICLE 4. To see if the Town will vote to have its elected Board of Assessors become an appointed Board of Assessors of the Town, or take any other action relative thereto. *(No Action by the Finance Committee)*

ARTICLE 5. To see if the Town will vote to adopt the following Unlawful Noise bylaw:

Section 1: PURPOSE

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and, WHEREAS the people have a right to, and should be ensured an environment free from excessive sound, it is the policy of the Town of Lanesborough to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This By-law shall apply to the control of sound originating from stationary and mobile sources, as described herein, within the limits of the Town of Lanesborough.

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Section 2: UNLAWFUL NOISE PROHIBITED

It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, unnecessary, or unusually loud noise which either annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose, or the health or safety of others within the town of Lanesborough, or otherwise prevents the citizens of Lanesborough the peaceful enjoyment of their property. The following acts are declared to be loud, disturbing, injurious, unnecessary and unlawful noises in violation of this section, but this enumeration shall not be exclusive, namely:

Section 3: SPECIFIC PROHIBITED ACTS

No person shall cause, suffer, allow, or permit the following acts in such a manner so as to annoy or disturb the reasonable quiet, comfort or repose of persons across a residential real property line.

- a) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, amplified instruments or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance;
- b) Using or operating any loudspeaker, public address system, or similar device between 10:00 P.M. and 8:00 A.M. of the following day, such that the sound therefrom creates a noise disturbance;
- c) Operating or permitting the operation of any tools or equipment used in construction, drilling, earthmoving, excavating, or demolition work between 8:00 P.M. and 7:00 A.M.. of the following day, except for emergency work;
- d) Owning, possessing, or harboring any animal or bird that, frequently and for sustained duration, generates sounds that creates a noise disturbance;
- e) The operation of a motorized vehicle(s) that frequently and for a sustained duration, generates sound that creates a noise disturbance;

Section 4. EXEMPTIONS

None of the terms or prohibitions of the previous section shall apply or be enforced against any of the following activities:

- a) **Agricultural Activities.** Noise caused by agricultural, farm-related, or forestry-related activities as defined by M.G.L.Chapter 128, Section 1A, including but not limited to the operation of farm equipment, sawmills, harvesting equipment, and noises from farm animals.

- b) **Construction and Business Activities.** Noise from construction vehicles and equipment when operated between 7:00 A.M. and 8:00 P.M. provided that all motorized equipment used in such activity is equipped with properly functioning mufflers.

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- c) **Domestic Power Equipment.** Noise from domestic power tools, lawn mowers, chainsaws, leaf blowers, wood splitters, air compressors and other similar equipment when operated between 7:00 A.M. and 8:00 P.M.
- d) **Emergency Vehicles.** Any police, fire, ambulance or other emergency response vehicle while engaged in necessary emergency situations.
- e) **Highway and Utility Maintenance and Construction.** Necessary excavation or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Town, or any public utility or any agency of the State of Massachusetts.
- f) **Public Address.** Non-commercial public speaking and public assembly activities subject to federal and state constitutional protection.
- g) **Alarm Systems.** Any sound generated from a device used in an alarm system.
- h) **Religious/Municipal Uses.** Any bell or chime or other sound generated from a school, municipal facility or place of worship.
- i) **Municipal Events.** Noise generated from municipally sponsored or approved celebrations or events.
- j) **Watercraft.** Boats and personal watercraft are not subject to this bylaw.
- k) **Snow Removal Activities.** Noise from snow blowers, snow throwers, and snow plows.

Section 5. ENFORCEMENT PROCEDURES

Enforcement of this bylaw is through either the Lanesborough Board of Selectmen or the Lanesborough Police Dept.

The municipal enforcement officer shall initially determine the extent and nature of any violations of the By-law, and having determined that such violations have occurred or are continuing to occur, shall serve a written Notice of Violation on the offender.

Section 6. PENALTIES

The first violation of this by-Law shall be punished by a fine of not less than **two hundred dollars (\$200.00)**. The second violation of this by-law shall be punished by a fine of not less than **two hundred and fifty dollars (\$250.00)**. Further

violations shall be punished by a fine of three hundred dollars (**\$300.00**). Each such act which either continues or is repeated more than **one- half (1/2) hour** after issuance of a written Notice of Violation of this by-law shall be a separate offense and shall be prosecuted as a separate offense. If the violation occurs on the premises of rental property where there is a non-resident owner, the owner must also be notified in writing that the violation has occurred.

Section 7. OTHER REMEDIES

If the person or persons responsible for an activity which violates Section 2 cannot be determined, the person in lawful custody and/or control of the premises,

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including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

If the person or persons responsible for an activity which violates Section 2 can be determined, any person or persons who violate Section 2 of this by-law may be arrested without a warrant, provided that the violation occurs in the presence or view of any officer authorized to serve criminal process.

Section 8. SEVERABILITY

If any provision of this by-law is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

ARTICLE 6. To see if the Town will vote to initiate the process to aggregate electrical load, pursuant to MGL Ch. 164, Sec. 134, and further, to adopt the following resolution:

Whereas, the Commonwealth of Massachusetts is engaged in a process to establish a competitive market place through deregulation and restructuring of the electric utility industry;

Whereas, citizens of Lanesborough have a substantial economic and social interest at stake, and;

Whereas the Town of Lanesborough hereby finds that it may be in the interest of the electric ratepayers, both residential and commercial/industrial, to enter into an aggregation agreement,

Be it therefore resolved that the Town of Lanesborough hereby:

Publicly declares its intent to become an aggregator of electric power on behalf of its residential and business communities, and;

Will negotiate and enter into a contract for power supply independently. If such a contract is effected, individual consumers would retain the option not to participate and to choose any alternatives they desire, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 7. To see if the Town will vote, pursuant to MGL c.82, s.21, to accept **Wabun Street** from from Narragansett Ave to Chickatabot St. as laid out by the Board of Selectmen and as shown on a plan of land titled “Wabasso Street, Wabun Street, Bena Street” prepared by Taconic Land Consultants and on file at the Northern Berkshire Registry of Deeds, Drawer ____, Plan ____, as a Town Way, and further, that the Selectmen be authorized to accept the deed to the Town of the said way, or take any other action relative thereto. *(No action by the Finance Committee)*

ARTICLE 8. To see if the Town will vote, pursuant to MGL c.82, s.21, to accept **Wabasso Street** from Narragansett Ave to Hobomack Street, as laid out by the Board of Selectmen and as shown on a plan of land titled “Wabasso Street, Wabun Street, Bena Street” prepared by Taconic Land Consultants and on file at

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the Northern Berkshire Registry of Deeds, Drawer ____, Plan ____, as a Town Way, and further, that the Selectmen be authorized to accept the deed to the Town of the said way, or take any other action relative thereto. *(No action by the Finance Committee)*

ARTICLE 9. To see if the Town will vote, pursuant to MGL c.82, s.21, to accept **Bena Street** from Narragansett Ave to Hobomack Street, as laid out by the Board of Selectmen and as shown on a plan of land titled “Wabasso Street, Wabun Street, Bena Street” prepared by Taconic Land Consultants and on file at the Northern Berkshire Registry of Deeds, Drawer ____, Plan ____, as a Town Way, and further, that the Selectmen be authorized to accept the deed to the Town of the said way, or take any other action relative thereto. *(No action by the Finance Committee)*

ARTICLE 10. To see if the Town will vote to raise and appropriate and/or transfer from available funds, and/or authorize the Treasurer to borrow, with the approval of the Board of Selectmen, pursuant to MGL Ch. 44, **\$ 70,000** for the purpose of purchasing a new truck for the Lanesborough Highway Dept, or take any other action relative thereto. *(Recommended by the Finance Committee)*
(2/3 Vote Required If Borrowing)

ARTICLE 11. To see if the Town will vote to create an account for **All Town Mowing**, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 12. To see if the Town will vote to raise and appropriate and/or transfer from available funds **\$12,000.00** for the All Town Mowing account, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 13. To see if the Town will vote to raise and appropriate and/or transfer from available funds **\$2,000.00** for the Fire Matching Grant, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 14. To see if the Town will vote to raise and appropriate and/or transfer from available funds, **\$5,000.00** to paint and equip the Fire Dept. rescue truck, or take any other action relative thereto. *(Not recommended by the Finance Committee)*

ARTICLE 15. To see if the Town will vote to raise and appropriate and/or transfer from available funds, **\$1,500.00** to purchase American flags, or take any other action relative thereto.

ARTICLE 16. To see if the Town will vote to accept MGL c. 40, s. 42G, s. 42H and s. 42I, as amended, in order to allow for the Town to provide for, by by-law or vote, the levy or special assessments to meet the cost incurred of laying pipes in public and private ways for the conveyance or distribution of water to its inhabitants; or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 17. To see if the Town will vote to raise and appropriate and/or transfer from Free Cash **\$15,000.00** to hire an engineering firm to prepare a Preliminary Engineering Report to be submitted to the USDA, for the

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replacement of certain water lines distributing water, within the Berkshire Coop and the Berkshire Spring/Town of Lanesborough public water supply systems, as well as other improvements, or take any other action relative thereto. *(Recommended by the Finance Committee) (The funds for this project will be paid back in part through the enactment of a Betterment District on the Berkshire Coop Water System.)*

ARTICLE 18. To see if the Town will vote to adopt the following bylaw:

PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDRO-CANNABINOL

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, sec. 1, as amended) while in or upon any area or building owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This By-Law may be enforced by a complaint pursuant to M.G.L. Ch. 40, Sec. 21, by the Board of Selectmen, their duly authorized agents, or by any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300.00) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under M.G.L. Ch. 94C, sec. 32L. *(No Action by the Finance Committee)*

ARTICLE 19. To see if the Town will vote to authorize the establishment of a LACTV2 Cable Commission revolving fund account to collect cable franchise fees and other receipts and donations and to authorize expenditures of up to **\$5000.00** from said account in accordance with M.G. L. Chapter 44, Section 53

E1/2, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 20. To see if the Town will vote to authorize the establishment of a revolving fund account for Code Enforcement Training and Services, through the receipt of fines from the Fire and Building Inspectors, in accordance with MGL Chapter 44, Section 53 E1/2 and Chapter 304 of the Acts of 2004, and to authorize expenditures up to **\$2,500.00** from said account, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 21. To see if the Town will vote to authorize the establishment of a revolving fund account for the purpose of promoting agriculture for the Lanesborough Agricultural Commission through the receipt of grants, gifts, donations and fees in accordance with MGL Chapter 44, Section 53E1/2 and to authorize expenditures up to **\$5,000.00** from said account, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 22. To see if the Town will vote to authorize the establishment of a revolving fund account for the Highway Dept. through the receipt of fees for the operation of the Boom Mower in accordance with MGL Chapter 44, Section 53E1/2 and to authorize expenditures up to **\$1,500.00** from said account, or take any other action relative thereto. *(Recommended by the Finance Committee)*

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ARTICLE 23. To see if the Town will vote to authorize the establishment of a revolving fund account for the Board of Health, through the receipt of fines, in accordance with MGL Chapter 44, Section 53 E1/2 and Chapter 304 of the Acts of 2004, and to authorize expenditures up to **\$3,000.00** from said account, or take any other action relative thereto. *(Not recommended by the Finance Committee)*

ARTICLE 24. To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of **\$400.00** as the town's share of the expenses for the administration of the Berkshire Region Group Purchasing Program, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 25. To see if the Town will vote to authorize the Treasurer to make expenditures from the Transportation Bond Bill for the repair and maintenance of roadways in Lanesborough in anticipation of revenue and allow for the carry over of the funds from year to year until expended, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 26. To see if the Town will vote to raise and appropriate for the operation of the Ambulance Enterprise **\$47,233.00** for salaries and expenses and that \$47,233.00 be raised as follows: Departmental Receipts, \$42,733.00; Retained Earnings, \$4,500.00, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 27. To see if the Town will vote to raise and appropriate for the operation of the Sewer Enterprise **a sum of money** for expenses and that \$ be raised as follows: Departmental Receipts, \$; Retained Earnings, \$, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 28. To see if the Town will vote to appropriate and transfer from funds to be received from the Baker Hill Road District, the sum not to exceed **\$215,653.00**, to the Baker Hill Road District Police Salaries and Expenses Account for Fiscal Year 2010 pursuant to the provisions of M.G.L. Chapter 44, Section 53E, or take any other action relative thereto. *(Recommended by the Finance Committee)*

ARTICLE 29. To see if the Town will vote, pursuant to M.G.L. Chapter 40, Section 6, to appropriate and transfer from available funds, **\$30,000.00** to the Reserve Fund, or take any other action relative thereto. *(Recommended by Finance Committee)*

ARTICLE 30. To see if the Town will vote, pursuant to M.G.L. Chapter 40, Section 5B, to appropriate and transfer from Free Cash a **sum of money** to the Stabilization Fund, or take any other action relative thereto. *(Recommended by the Finance Committee) (2/3 Vote Required)*

ARTICLE 31. To see if the Town will vote to appropriate and transfer from Free Cash a **sum of money** to be used by the Assessors to reduce the tax rate for Fiscal Year 2010, or take any other action relative thereto. *(Recommended by the Finance Committee)*

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The business meeting at which Articles 2 through 31 will be acted upon will commence at 7:00 P.M., Tuesday, May 12, 2009. The election, or action on Article 1, will take place on Tuesday, May 19, 2009, and the polls will be open at noon and close at 8:00 P.M.

You are hereby directed to serve this Warrant by posting True and Attested copies thereof in three public places and convenient places in the Town, at least seven days before the time of holding said meeting.

TOWN OF LANESBOROUGH
BOARD OF SELECTMEN

John Goerlach, *Chairman*
William Prendergast Jr.
Joseph Szczepaniak Jr.